

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

FREMONT UNIFIED SCHOOL
DISTRICT.

OAH CASE NO. 2012090554

ORDER GRANTING PEREMPTORY
CHALLENGE AND CONTINUING
THE PREHEARING CONFERENCE

On January 14, 2013, the Fremont Unified School District (District) filed a notice of peremptory challenge to Administrative Law Judge (ALJ) Rebecca Freie in the above captioned matter. The District's peremptory challenge is made pursuant to Government Code section 11425.40, subdivision (d), of the Administrative Procedures Act (APA), and California Code of Regulations, title 1, section 1034.

Government Code section 11425.40, subdivision (d), establishes the criteria for disqualification of the presiding officer. A party is entitled to one peremptory challenge (disqualification without cause) to an ALJ assigned to an Office of Administrative Hearings (OAH) hearing. (Cal. Code Regs., tit. 1, § 1034, subs. (a) & (b); Gov. Code, § 11425.40, subd. (d).) In no event will a peremptory challenge be allowed if it is made after the hearing has commenced. In addition, if at the time of a scheduled prehearing conference, an ALJ has been assigned to the Hearing, any challenge to the assigned ALJ shall be made no later than commencement of that prehearing conference. (Cal. Code Regs., tit. 1, § 1034, subd. (c).) A peremptory challenge is not allowed on reconsideration or remand, and cannot be made after a hearing has begun. (Cal. Code Regs., tit. 1, § 1034, subd. (a).)

The District's peremptory challenge is timely made and is granted pursuant to Government section 11425.40, subdivisions (a) and (d), and California Code of Regulations, title 1, section 1034, subdivision (c).

ORDER

1. The District's challenge of ALJ Rebecca Freie is granted.
2. The prehearing conference and hearing in this matter is now assigned to ALJ Peter Paul Castillo.

3. The previously set prehearing conference is continued to January 14, 2013, at 3:00 p.m. OAH will initiate the call. The hearing dates remain as calendared.

Dated: January 14, 2013

/s/

PETER PAUL CASTILLO
Administrative Law Judge
Office of Administrative Hearings